F & G Research, Inc v. Google, Inc Doc.

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION

F & G RESEARCH, INC., **Plaintiff,** **v.** **GOOGLE INC.,** **Defendant.**	**Case No. 5:07-cv-00130-RLV-DLH**

Joint Motion for Enlargement of Time

Plaintiff F&G Research, Inc. ("F&G"), and Defendant Google, Inc. ("Google"), through counsel, jointly move the Court pursuant to Federal Rules of Civil Procedure 6 for an Order extending by thirty (30) days, through and including Monday, March 17, 2008, the time by which the parties must submit a proposed discovery plan to the Court pursuant to Local Rule 16.1(A). In support of this consent motion, F&G and Google respectfully show the Court as follows:

1. F&G filed this patent infringement action against Google on or about November 29, 2007 asserting that Google infringes the claims of U.S. Patent No. 5,313,219 (the "'219" Patent").

Dockets.Justia.com

2. On or about January 22, 2008, Google timely answered F&G's complaint.

3. F&G previously filed a patent infringement action against Google in the United States District Court for the Southern District of Florida (Civil Action No. 06-cv-60905) alleging that Google infringes the claims of '219 Patent (the "S.D. Fla. Case").

4. The Honorable Cecilia M. Altonaga, presiding judge in the S.D. Fla. Case, granted summary judgment that Google does not infringe the '219 Patent, either directly or indirectly.

5. F&G filed a notice of appeal in the S.D. Fla. Case and F&G's appeal is currently pending.

6. F&G and Google are engaged in settlement discussions that potentially will result in the universal settlement of both the instant action and F&G's appeal of the S.D Fla. Case.

7. Pursuant to LR 16.1(A), the parties are required to meet and confer on or before February 7, 2008 and thereafter submit a proposed discovery plan—including a request for an Initial Attorney's Conference if desired—on or before February 14, 2008.

8. Pursuant to LR 16.1(B), if requested by the parties, the Initial Pretrial Conference is to be held no later than 12 days after the filing of the discovery plan.

9. Pending the outcome of the parties' settlement discussions, the parties wish to avoid an unnecessary expenditure of both their own—and more importantly, this Court's—time and resources that potentially will occur if the parties meet and confer, negotiate a proposed discovery plan, and conduct an Initial Pretrial Conference while settlement discussions are ongoing.

10. The time in which the parties must meet and confer, submit their proposed discovery plan and request an Initial Pretrial Conference with the Court has not yet expired.

11. This request for a thirty (30) day extension of time is made in good faith and not for the purpose of delay.

WHEREFORE, Plaintiff F&G Research Inc. and Defendant Google, Inc. hereby jointly request that this Court grant the parties an additional thirty (30) days, through and including March 17, 2008, to submit a proposed discovery plan to the Court pursuant to Local Rule 16.1(A).

Dated: February 7, 2008

By: /s/ Steven J. Hultquist
Steven J. Hultquist
Shultquist@iptl.com
IPTL
Suite 201
1414 Raleigh Road
Chapel Hill, NC 27517

Allen D. Brufsky
Abrufs@aol.com
Allen D. Brufsky, PA
475 Galleon Drive
Naples, FL 34102

Attorneys for Plaintiff
F&G RESEARCH, INC.

By: /s/ K. Matthew Miller
K. Matthew Miller
matt.miller@wcsr.com
WOMBLE CARLYLE
SANDRIDGE & RICE, PLLC
3500 One Wachovia Center
301 South College Street
Charlotte, NC 28202-6037
Telephone: 704.331.4913
Facsimile: 704.338.7837

Of Counsel:
Ramsey M. Al-Salam
ralsalam@perkinscoie.com
Ryan J. McBrayer
rmcbrayer@perkinscoie.com
PERKINS COIE LLP
1201 Third Avenue, Suite 4800
Seattle, WA 98101-3099
Telephone: 206.359.8000
Facsimile: 206.359.9000

Attorneys for Defendant
GOOGLE INC.

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of February, 2008, I electronically filed the foregoing *Joint Motion for Enlargement of Time* with the Court's CM/ECF system, which will send email documentation to the following attorneys of record:

Steven J. Hultquist
IPTL
Suite 201
1414 Raleigh Road
Chapel Hill, NC 27517
Shultquist@iptl.com

Allen D. Brufsky
Allen D. Brufsky, PA
475 Galleon Drive
Naples, FL 34102
Abrufs@aol.com

/s/ K. Matthew Miller